



Early Journal Content on JSTOR, Free to Anyone in the World

This article is one of nearly 500,000 scholarly works digitized and made freely available to everyone in the world by JSTOR.

Known as the Early Journal Content, this set of works include research articles, news, letters, and other writings published in more than 200 of the oldest leading academic journals. The works date from the mid-seventeenth to the early twentieth centuries.

We encourage people to read and share the Early Journal Content openly and to tell others that this resource exists. People may post this content online or redistribute in any way for non-commercial purposes.

Read more about Early Journal Content at <http://about.jstor.org/participate-jstor/individuals/early-journal-content>.

JSTOR is a digital library of academic journals, books, and primary source objects. JSTOR helps people discover, use, and build upon a wide range of content through a powerful research and teaching platform, and preserves this content for future generations. JSTOR is part of ITHAKA, a not-for-profit organization that also includes Ithaka S+R and Portico. For more information about JSTOR, please contact support@jstor.org.

Book Reviews

WINSLOW'S FORMS OF PLEADING AND PRACTICE UNDER THE CODE. By John B. Winslow. Second edition. T. H. Flood & Co., 214 West Madison St., Chicago. 1915. In three volumes, pp. 2737. \$19.50.

The rival schools of Proculians and Sabinians divided the Roman lawyers no more sharply than the use of forms does the modern practitioners. To one class the form book is the first and sometimes the only book consulted, while to the other class the very sight of a form book is enough to start an explosion of wrath. It is certain, however, that the lawyer who proclaims most proudly, "I never use a form book in my office," uses the forms he has himself prepared, whenever a similar case arises. It is almost equally certain that a book giving a variety of forms compiled and in use by the ablest practitioners of the particular state and designed to cover various contingencies and complications would meet with a ready sale. Most of the forms in the form books give nothing more than a meager statement to cover a general type case. When the practitioner has looked up the code, checked up on amendments, and provided for particular circumstances of the particular case, the form gives only what he knows already and its use has simply wasted time and added to the possibility of error through the danger of inadvertently copying something from the form not suited to the case in hand or the present law. The form book under review contains many forms which, as the author sometimes cautions the reader, ought to be sufficient but probably would not be held so. Why, however, should brief forms not be held sufficient? Why should it be necessary to plead with the prolixity required by so many of our courts? The new Indictments Act in England reduces the statement of a crime to its lowest terms. All that is necessary in murder is to allege that "A B on the ——— day of ——— in the county of ——— murdered J. S." Why should we in civil matters perpetuate what Mr. Justice Holmes has termed, "The inability of the seventeenth century common law to understand or accept a pleading that does not exclude every misinterpretation capable of occurring to intelligence fired with a desire to pervert?" The situation calls for concerted action by the legal profession. The code alone is not to blame. Too much of the technicality has been put in by lawyers and judges misinterpreting the code spirit.

For the present, however, the lawyer must take the law as he finds it. Judged by this standard the forms should be used with great care. Thus the affidavit for publication of summons when

the defendant cannot be found would hardly satisfy the California courts; the complaint in the policy of fire insurance would probably fail for want of the allegation that the building was occupied as a dwelling and the furniture was contained in the house (*Arnold v. American Insurance Company*, 148 Cal. 660); the complaint for specific performance would be subject to demurrer for want of facts showing the consideration was just, reasonable and adequate (*White v. Sage*, 149 Cal. 613); and other examples might be given. The value of this set of forms for California is lessened by the fact that the references are to the 1906 Code. Since that time the legislature has enacted amendments at five sessions. The references to adjudicated cases are also too few.

There are, however, some excellent features. The forms are given with all the formal details; such matters worry the young practitioner; they loom up like giants in his path. With this form book the graduate of a law school who had never seen a complaint could draft one correct as to its formal parts. So many examples are given not merely of complaints, but of the affidavits, notices, instructions to officers, and other papers required in the various proceedings, that the chances are certainly in favor of the seeker finding what he wants. Where the matter has not been definitely adjudicated by the court it will be of considerable advantage to the lawyer whose pleading has been attacked, to be able to say, "This form is approved by Chief Justice Winslow of the Wisconsin Supreme Court." If the publication of this edition of a form book by the learned Chief Justice will help to bring about simplicity in pleading, a copy thereof should be on every lawyer's desk.

A. M. K.

THE LAW AND PRACTICE OF MUNICIPAL HOME RULE. By Howard Lee McBain, Columbia University Press, New York. 1916. pp. xviii, 724. \$5.00 net.

In this elaborate and painstaking volume the author has essayed to set forth all that is useful to know in regard to the constitutional and statutory authority for "home rule" in cities, and the judicial decisions bearing thereon, in the twelve states which have given to municipalities permission to frame their own charters. The states involved in this study are Missouri, California, Washington, Minnesota, Colorado, Oklahoma, Arizona, Oregon, Michigan, Ohio, Nebraska, and Texas. The field is a rich one. There is more or less diversity in the constitutional and legislative provisions, a large degree of difference in the measure of autonomy allowed, and in a number of states a considerable bulk of judicial decisions. These decisions are not always in accord, even in one and the same state. Such conflict invites critical examination. The author does not seem to have overlooked any decisions bearing upon his study; in fact, he has included not a few which do not fall within the strict